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MLN Matters Number: MM3016

Related CR Release Date: January 2, 2004

Related CR Transmittal #: R4BP

Effective Date: December 8, 2003

Implementation Date: Targeted for two weeks after release of CR 3016.

MMA-Private Contract Manual Change to include Dentists, Podiatrists, and Optometrists in the Definition/List of Physicians Who Can Opt Out of Medicare

Note: This article was revised to contain Web addresses that conform to the new CMS web site and to show they are now MLN Matters articles. All other information remains the same.

Provider Types Affected

Dentists, podiatrists, and optometrists.

Provider Action Needed

Dentists, podiatrists, and optometrists should note they are added to the definition/list of physicians who may opt out of Medicare.

Background

The Social Security Act (Section 1802(b) (5) (B)) limited the types of physicians who may choose to opt out of Medicare to doctors of medicine and doctors of osteopathy. Most recently, the Medicare Prescription Drug, Improvement, and Modernization Act (MPDA) of 2003 (Section 603) added dentists, podiatrists, and optometrists to the definition/list of physicians who may opt out of Medicare.

Implementation

Implementation is targeted for two weeks after release of the related change request, which is CR 3016. However, the effective date is the date of enactment of the MPDA, which was December 8, 2003.

Related Instructions

Medicare carriers will permit dentists, podiatrists, and optometrists who are legally authorized to practice dentistry, podiatry, or optometry by the State in which they perform such functions to opt out of Medicare pursuant to section 1802(b) of the Social Security Act and Section 603 of the MPDA.

The definition of physician/practitioner in Chapter 15, Section 40.4, of the Medicare Benefit Policy Manual (Pub. 100-02) has been revised as follows:

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3044.4 - Definition of Physician/Practitioner. For purposes of this provision, the term "physician" is limited to doctors of medicine; doctors of osteopathy; doctors of dental surgery or of dental medicine; doctors of podiatric medicine; and doctors of optometry who are legally authorized to practice dentistry, podiatry, optometry, medicine, or surgery by the State in which such function or action is performed; no other physicians may opt out. Also, for purposes of this provision, the term "practitioner" means any of the following to the extent that they are legally authorized to practice by the State and otherwise meet Medicare requirements: physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, clinical psychologist, or clinical social worker.

The opt out law's definition of a "physician" does not include **chiropractors**; therefore, they cannot opt out of Medicare and provide services under private contract.

Similarly, the law's definition of a "physician" or "practitioner" does not include **physical therapists** or **occupational therapists** in independent practice; therefore, they also cannot opt out.

Questions regarding these changes may be directed to your Medicare carrier at their toll free number. If you do not have that number, you may obtain it at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.pdf> on the CMS web site.

In addition, to learn more about this area of Medicare policy, you can view Chapter 15 of the Medicare Benefit Policy Manual by visiting <http://www.cms.hhs.gov/manuals/downloads/bp102c15.pdf> on the CMS web site.

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